

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA.No.817 of 1994

New Delhi, this 22nd day of July, 1999.

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN(J)
HON'BLE SHRI S.P. BISWAS, MEMBER(A)

Mahfuz Yazdani
S/o Shri M.D. Muzammil Haque
R/o Gupta Provision Store
Masoodpur Diary
Vasant Kunj
NEW DELHI-110037.

... Applicant

By Advocate: None Present

versus

1. Union of India,
through General Manager
Northern Railway
Baroda House
NEW DELHI.

2. Shri Azizul Haque
I.R.T.S. Manager System
Office of CCM/CR
I.R.C.A. Reservation Building
NEW DELHI 110001.

... Respondents

By Advocate: Shri R.L. Dhawan

O R D E R (ORAL)

Hon'ble Shri S.P. Biswas, M(A)

The applicant, a Substitute Bunglow Khallasi, has impugned respondents' orders dated 20.8.93 and the appellate order dated 31.1.94 on grounds of these being arbitrary, discriminatory and violative of Articles 14, 16 & 21 of the Constitution of India. Consequently, he seeks reinstatement with all consequential benefits.

2. The applicant would argue that the aforesaid orders are arbitrary and discriminatory inasmuch as several persons

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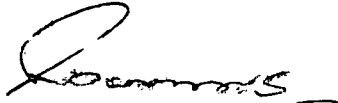
junior to him in the same category have been retained whereas the services of the applicant have been terminated without notice. The applicant also claims that he has worked for more than four months continuously and has acquired the status of a temporary Railway servant in terms of Rule 1501 and relevant Railway Rules read with the decision of Hon'ble Supreme Court in case of UOI Vs Basant Lal (1992) 20 ATC 280. 46

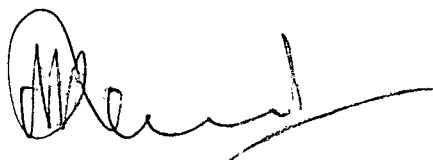
3. We called for this case in the second round and yet none appeared on behalf of the applicant. Shri R.L. Dhawan, appearing on behalf of the respondents, argued that the case of the applicant herein is covered by a decision of the Full Bench of this Tribunal in OA.896/95 with connected cases decided on 12.2.99. The OA. filed by this very applicant, viz. Mahfuz Yazdani also figured in the aforesaid Full Bench case.

4. The issue that arises for determination is whether upon putting in 120 days of continuous service, such an employee acquires temporary status or not, and if so, whether upon acquiring such status his services could be dispensed with for unsatisfactory performance only after conducting a departmental enquiry. The Full Bench had framed this question for determination as could be seen in para 1(iii) of the group of OAs decided on 12.2.99. 8/1

5. Shri R.L. Dhawan has invited our attention to para 1(iii)(b) of the aforesaid Full Bench judgment wherein it has been held that after acquisition of temporary status by a Bunglow Khallasi, his services can be terminated on the ground of unsatisfactory work without holding a departmental enquiry. The learned counsel also submits that in the present case, the applicant did not acquire temporary status and, in the circumstances, there is no infirmity in the impugned orders. We also find that a similar issue stands decided by this Tribunal on 13.5.99 in OA.896/95. We are bound by these orders.

6. The OA is, therefore, dismissed. No costs.


(S.P. Biswas)
Member(A)


(A.V. Haridasan)
Vice Chairman(J)